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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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George Thompson

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EXAMINER

ANDERSON, JOHN A

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/691,227	Applicant(s) THOMPSON ET AL.	
	Examiner JOHN A. ANDERSON	Art Unit 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 7-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 7-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/24/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In the amendment filed 04/01/2008, the following has occurred. Claims 1, 5, 7-9, 12, 18- 20, 22 -26, 34-39 are amended. Claims 2, 3, 10, 11, 13-17, 21, 27-33 are original. Claims 4 and 6 are canceled. Claims 1-3, 5, 7-39 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 25 and 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended claims contain the following limitations :

“ wherein the market information comprises at least (a) a first set of market data for the underlying investment based on a series of consecutive first time intervals within the time period comprising a first opening value and a first closing value for each consecutive first time interval, (b) a second set of market data for the underlying investment based on a series of consecutive second time intervals within the time period comprising a second opening value and a second closing value for each consecutive second time interval, and (c) the first time interval is not equal to the second time interval;”

“calculating [an] a first opening value trend for the first time intervals using a market trend indicator and the first opening values for the underlying investment, and a second opening value trend for the second time intervals using the market trend indicator and the second opening values for the underlying investment;”

“calculating a first closing value trend for the first time intervals using the market trend indicator and the first closing values for the underlying investment, and a second closing value trend for the second time intervals using~ the market trend indicator and the second closing values for the underlying investment;”

“displaying a first visual favorable/unfavorable trade indicator ~~comparing~~ for the first time intervals based on a comparison of the first opening value trend to the

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first closing value trend for the underlying investment, wherein the first visual favorable/unfavorable trade indicator is a first color whenever the first closing value trend is greater than the first opening value trend and the first visual favorable/unfavorable trade indicator is a second color whenever the first closing value trend is lower than the first opening value trend; ”

“displaying a second visual favorable/unfavorable trade indicator ~~comparing~~ for the second time intervals based on a comparison of the second opening value trend to the second closing value trend for the underlying investment, wherein the second visual favorable/unfavorable trade indicator is the first color whenever the second closing value trend is greater than the second opening value trend and the second visual favorable/unfavorable trade indicator is the second color whenever the second closing value trend is lower than the second opening value trend.”

These limitations were added to the claims without being similarly described in the specifications. The limitations in reference do not have support in the specification as originally filed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-3, 5,7,8, 10-14, 17, 18, 20-25, 27-30, 33-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brumfield et al (PGPUB US 2006/0271475 A1) in view of Olsen et al (PGPUB US 2002/0184134 A1)
5. As regards claims 1, 25 and 39, Brumfield discloses a method for determining and displaying trading trends comprising the steps of:
 - obtaining market information for an investment underlying one or more options for a two or more time period intervals, wherein the market information comprises at least [0010]

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- a first set of market data for the underlying investment based on a series of consecutive first time intervals within the time period comprising a first opening value and a first closing value for each consecutive first time interval, [0011]
- (b) a second set of market data for the underlying investment based on a series of consecutive second time intervals within the time period comprising a second opening value and a second closing value for each consecutive second time interval, [0011]
- calculating [an] a first opening value trend for the first time intervals using a market trend indicator and the first opening values for the underlying investment, and a second opening value trend for the second time intervals using the market trend indicator and the second opening values for the underlying investment; [0186]
- calculating a first closing value trend for the first time intervals using the market trend indicator and the first closing values for the underlying investment, and a second closing value trend for the second time intervals using the market trend indicator and the second closing values for the underlying investment; [0188]
- displaying a first visual favorable/unfavorable trade indicator ~~comparing~~ for the first time intervals based on a comparison of the first opening value trend to the first closing value trend for the underlying investment, wherein the first visual favorable/unfavorable trade indicator is a first color whenever the first closing value trend is greater than the first opening value trend and the first visual

favorable/unfavorable trade indicator is a second color whenever the first closing value trend is lower than the first opening value trend; [0089]

- displaying a second visual favorable/unfavorable trade indicator ~~comparing for~~ the second time intervals based on a comparison of the second opening value trend to the second closing value trend for the underlying investment, wherein the second visual favorable/unfavorable trade indicator is the first color whenever the second closing value trend is greater than the second opening value trend and the second visual favorable/unfavorable trade indicator is the second color whenever the second closing value trend is lower than the second opening value trend. [0094]
- Brumfield does not disclose the first time interval is not equal to the second time interval; Olsen discloses [0131].

It would have been obvious for a person of ordinary skill in the art at the time of the invention was made to use Olsen in the device of Brumfield. The motivation would have been to provide comparisons between different time intervals.

6. As regards claim 2, Brumfield discloses wherein the opening value is an opening price and the closing value is a closing price. [0034]
7. As regards claim 3, Brumfield discloses wherein the opening value is an opening trading volume and the closing value is a closing volume. [0186]
8. As regards claim 5, Brumfield discloses wherein the first color is green. [0093]

9. As regards claim 7, Brumfield discloses wherein the second color is red. [0093]

10. As regards claim 8, Brumfield discloses wherein the first visual favorable/unfavorable trade indicator displays the first time interval and the second visual favorable/unfavorable trade indicator displays the second time interval. [0185,

In accordance with a preferred embodiment, a trader is provided with a display of the net price of the working buy and sells orders. A visual indicator such as text, color, a combination of text and color, or a graphical indicator is used to highlight to the trader the net price of working buy and sell orders. The graphical indicator may take any form, including a line or even a colored pixel. A visual indicator such as text, color, a combination of text and color, or a graphical indicator is used to highlight to the trader the net price of working buy and sell orders. The graphical indicator may take any form, including a line or even a colored pixel.]

11. As regards claims 10 and 27, Brumfield discloses further comprising the step of displaying a list of information about a point selected on either the first line or the second line.

[0036, Certain of the trading tools work particularly well with a trading display that shows working orders and/or bid and ask quantities, or other market information, displayed in association with a static price scale or axis.]

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12. As regards claims 11 and 28 , Brumfield discloses wherein the market trend indicator comprises one or more regression algorithms selected from: stochastic, relative strength, directional movement, commodity channel, simple average, exponential average, weighted average, MACD (simple), MACD (exponential), momentum/ROC, midrange, William's %R, parabolic stop, volatility stop, trailing stop, high low stop, Bollinger Bands, Kilter Channel, uniform channel, regression channel, swing lines, cycle forecast, on balance volume, overlay chart, point & figure, moving average, moving linear regression, upper envelope, lower envelope, %K, %D, %D slow, %D averaged, %R, RSI, momentum, acceleration, moving average oscillator, moving average momentum, moving average convergence-divergence oscillator, moving average convergence- divergence, MACD signal line, commodity channel index, rate of change in prices, on balance volume variance, standard deviation, volatility ratio, volatility, skew, kurtosis, Williams Accumulated Distribution, Arm's Ease of Movement, plus directional indicator, minus directional indicator, directional movement and average directional movement.

[0136, alternatively, the order that is automatically entered, may be at a price or prices calculated pursuant to any algorithm.]

13. As regards claim12, Brumfield discloses wherein the first opening value trend is calculated without using the first opening value from the most recent first time interval within the time period.

[0094, This benefits a trader in that the display of, and the color designation(s) for, the LTQ provides a visual reference of the market's price movements, status or trends, thereby permitting a trader to quickly absorb additional information, such as the direction of the market's activity. As a result of seeing the changes in the price of the last traded quantities, a trader can more easily determine market status and trends, thereby enhancing the likelihood of the trader entering orders and having those orders filled at desirable prices.]

14. As regards claims 13 and 29, Brumfield discloses further comprising the steps of: selecting a market information source; and communicably connecting to the market information source.

[0005, Irrespective of the way in which a connection is established, the exchange participants' computers allow traders to participate in the market. They use software that creates specialized interactive trading screens on the traders' desktops. The trading screens enable traders to enter and execute orders, obtain market quotes, and monitor positions.]

15. As regards claims 14 and 30, Brumfield discloses further comprising the step of executing a trade involving one of the options for the underlying investment.

[0049, This method ensures fast and accurate execution of trades by displaying information, such as market depth or working orders, in association with an axis or scale of static prices.]

16. As regards claims 17 and 33, Brumfield discloses further comprising the step of searching for one or more investment trading opportunities based on one or more search criteria.

[0100, without an auxiliary feed in instances of lost data, the display would be void of prices, and opportunities for trading could be lost.]
17. As regards claims 18 and 34, Brumfield discloses further comprising the step of selecting the first time interval or the second time interval.

[abstract, A first information display region associated with the first commodity and including a number of locations arranged such that each location corresponds to a price level along at least a portion of a first static price axis is displayed at a first time.]
18. As regards claims 20 and 35, Brumfield discloses further comprising the step of repeating the steps of obtaining the market information, calculating the opening value trends and the closing value trends, and displaying the visual favorable/unfavorable trade indicators for a set of different time intervals.

[0010, 0089, 0186, 0188]
19. As regards claim 21, Brumfield discloses wherein the set of different time intervals comprises daily, weekly and monthly intervals.

[0138, The automatic scalper automatically and, preferably, immediately enters a duplicate buy or sell quantity, which when filled will close the trader's position, preventing the trader from carrying a long or short position for an extended period of time.]

Brumfield does not disclose modeling the daily and weekly fluctuations of foreign exchange activity.

Olsen discloses modeling the daily and weekly fluctuations of foreign exchange activity. [0095]

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Brumfield in view of Olsen to specify the time intervals used in the data analysis. The motivation would have been to establish a useful time scale for indicator computations.

20. As regards claims 22 and 36, Brumfield discloses further comprising the step of repeating the steps of obtaining the market information, calculating the opening value trends and the closing value trends, and displaying the visual favorable/unfavorable trade indicators for two or more ~~options~~ investments.

[0011]

21. As regards claims 23 and 37, Brumfield discloses further comprising the step of updating the opening values, the closing values, the opening value trends, the closing value trends and the visual favorable/unfavorable trade indicators. [0046]

22. As regards claims 24 and 38, Brumfield discloses the LTQ marker 700 is a visual indicator of the last traded quantity. Any type of marker may be used as long as it may be recognized by the user as an indicator of quantity. [0089]

Brumfield does not disclose the step of signaling a user whenever any of the visual favorable/unfavorable trade indicators changes.

Olsen discloses an opportunity catcher that displays a signal for the dealer to buy or sell according to the recommendation. [0061, 0162]

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Brumfield in view of Olsen to notify the investor of opportune times to buy or sell or not to buy or sell. The motivation would have been to get the attention of the investor when a deal is recommended.

23. Claims 9 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brumfield et al (PGPUB US 2006/0271475 A1) in view of Olsen et al (PGPUB US 2002/0184134 A1) and in further view of Bay Jr (US PAT No: 5,347,452).

24. As regards claims 9 and 26, Brumfield discloses the step of displaying the first opening value trend as a first line [0089]

Brumfield and Olsen does not disclose the first closing value trend as a second line in a graph.

Bay discloses [column 5 lines 7-11]

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Brumfield in view of Bay to provide visual indicators for the first and second intervals. The motivation would have been to provide the traders with helpful information to make a determination whether to buy or sell.

25. Claims 15, 19 and 31, are rejected under 35 U.S.C. 103(a) as being unpatentable over Brumfield et al (PGPUB US 2006/0271475 A1) in view of Olsen et al (PGPUB US 2002/0184134 A1) and in further view of Greenwood K (PGPUB 2002/0156722)
26. As regards claims 15 and 31, Brumfield discloses the trading screens enable traders to enter and execute orders, obtain market quotes, and monitor positions. [0005]
- Brumfield and Olsen do not disclose the step of simulating an execution of a trade involving one of the options for the underlying investment.
- Greenwood discloses the step of simulating an execution of a trade involving one of the options for the underlying investment. [0077]
- Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Brumfield in view of Greenwood to provide the user the means to review or view the details of an order. The

motivation would have been to provide the investor an opportunity to view the information and the options available before committing to a sale.

27. As regards claim 19 , Brumfield discloses a first information display region associated with the first commodity and including a number of locations arranged such that each location corresponds to a price level along at least a portion of a first static price axis is displayed at a first time. A second similar information display region associated with the second commodity is also displayed at that time. [0011]

Brumfield and Olsen do not disclose the first time interval is a first preset time interval and the second time interval is a second preset time interval based on a user profile.

Greenwood discloses wherein the time interval is a preset time based on a user profile [0048].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Brumfield in view of Greenwood to include periodic monitoring of information to the user or trader. The motivation would have been to program the time interval in a systematic manner.

28. Claims 16 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brumfield et al (PGPUB US 2006/0271475 A1) in view of Olsen et al

(PGPUB US 2002/0184134 A1) in further view of Fitzpatrick et al (US PAT No: 7,171,384).

29. As regards claims 16 and 32, Brumfield discloses obtaining market information for an investment underlying one or more options for a two or more time period ~~intervals~~, wherein the market information comprises at least [0010] Brumfield and Olsen do not disclose the step of calculating a potential tax liability for an execution of a trade.
- Fitzpatrick discloses each selection may include a drop-down menu 205 of sub-selections. For instance, product and investment sub-selections include money markets, municipal bonds, mutual funds, private investments, taxable fixed income, unit trust and broker order entry. [Column 14, ln 43-47]
- Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Bay in view of Fitzpatrick to provide account data and other relevant information of interest to the investor. The motivation would have been to provide the investors with associated tax cost and what is taxable per trade transaction.

Response to Arguments

30. Applicant's arguments with respect to claims 1-3, 5, 7-39 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN A. ANDERSON whose telephone number is (571)270-3327. The examiner can normally be reached on Monday through Friday 8:00 to 5:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on 571-272-6803. The fax phone number

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for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John A Anderson/

Examiner, Art Unit 3696

John A Anderson

Examiner

Art Unit 3696

/J. A. A. /

Examiner, Art Unit 3696 06/20/2008

/Daniel S Felten/

Primary Examiner, Art Unit 3696